

REMARKS

The Final Office Action mailed February 1, 2007 has been reviewed and carefully considered. Claims 31, 34-39 and 44-47 are pending in the present application. Claims 31 and 34 have been amended. New claims 44-47 have been added. Claims 1-30, 32-33 and 40-43 have been cancelled without prejudice. No new matter has been added by the amendments. Reconsideration of the objections and rejections set forth therein is respectfully requested in view of the foregoing amendments and the following remarks.

Applicant submits a Request for Continued Examination (RCE) herewith and respectfully requests entry and consideration of the present claims.

DRAWINGS

The drawings were objected to under 37 C.F.R. 1.83(a), the Examiner alleging that the disposable bottle must be shown of the feature(s) canceled from the claim(s). Applicant has canceled claim 40, which included the term “disposable bottle.” It is respectfully asserted that the remaining pending claims do not include the term “disposable bottle.” Accordingly, withdrawal of the objection is respectfully requested.

§102 and §103 REJECTIONS

Claims 31, 34-36, 38 and 40 were rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,594,927 to Witkowski (hereinafter Witkowski). Further, claims 37 and 39 were rejected under 35 U.S.C. §103(a) as being unpatentable over Witkowski in view of U.S. Patent No. 4,907,359 to Berman (hereinafter Berman).

Applicant has amended independent claim 31 to recite, *inter alia*: “[A] disposable

beverage container or holder for a beverage container comprising: an excitable phosphorescent material for emitting light...” and “a reflector located above or below the phosphorescent material.” This amendment is supported by the specification, e.g., in paragraphs [006], [007], [0027] and [0029].

Applicant respectfully disagrees with the rejections and submits that the invention as presently claimed is patentable and unobvious over the cited references.

In the Office Action, the Examiner alleges that Witkowski teaches all the elements of claims 31, 34-36, 38 and 40, including “a disposable beverage bottle... having a flexible substrate adhesively secured thereto;” a “...substrate” which “may include glow-in-the-dark indicia made with phosphorescent material” and “a transparent cover that may be applied to the substrate.”

Turning now to Witkowski, that reference teaches a method for attaching ‘play premiums’ (e.g., stickers, transferable tattoos, etc.) which are integrally positioned on labels or wrappers. Witkowski’s focus is on integrating such premiums with labels in a way such that the label has an essentially uniform thickness which will be compatible with automated machinery used to apply the label onto a product.

However, after careful review, the Applicant respectfully asserts that Witkowski fails to disclose or suggest at least a reflector located above or below the phosphorescent material, essentially as claimed in claim 31. The portion cited by the Examiner with regards to phosphorescent material (Col. 16, lines 19-47), simply discusses the printing of labels with phosphorescent inks or pigments in a way which results in a label compatible with standard labeling machinery. Indeed, Witkowski’s discussion with respect to the use of phosphorescent inks simply involves coating an entire surface of a label with

phosphorescent ink and printing the label in a reverse image over the ink causing only a controlled portion of the label to be light sensitive. In this way, Witkowsky achieves its objective of a uniform coating of the phosphorescent ink across the label, thus insuring that the stacks of labels are of a uniform thickness as required for automated feeding equipment.

Witkowsky goes on to discuss the use of various other substances for producing visual effects, e.g., invisible inks (Col. 14, lines 54-65), water wash off inks (Col. 15, lines 1-5), solarchromatic or thermochromatic materials (Col. 15, lines 33-54), varnish or laminate coatings suitable for dry-erase capabilities (Col. 16, lines 48-65) . However, nowhere in Witkowsky is a reflector of any kind (nor any similar device) mentioned. Advantageously, the reflector according to one aspect of the present invention reflects light emitted, e.g., downwards from the back of the photoluminescent material, thus contributing to brightness and optical illusion. *See* specification, e.g., paragraph [0029].

Accordingly, claim 31 is asserted to be patentable and nonobvious over Witkowsky for at least the reasons stated above. Claims 34-36 and 38 depend from claim 31. Claim 40 has been cancelled without prejudice. The dependent claims include the limitations of their respective independent claim and are therefore believed to be patentable and nonobvious for at least the reasons stated for claim 31. Withdrawal of the §102(e) rejection is respectfully requested.

With respect to the 35 U.S.C. §103(a) rejection, the rejection of dependent claims 37 and 39 is based, in part, on the Examiner's contention that Witkowski discloses or suggests the features of independent claim 31, from which claims 37 and 39 depend. However, it is clear that the combination of Witkowski with Berman is legally deficient, since, at the very

least, as explained above, Witkowsky fails to disclose or suggest the features of amended claim 31, from which claims 37 and 39 depend.

It is therefore respectfully submitted that the present invention is not disclosed or suggested by the cited references taken alone or in combination. Claims 31, 34-36, 38 and 44-47 are believed to be in condition for allowance for at least the reasons stated above. Withdrawal of all the rejections and early and favorable reconsideration of this application is respectfully requested.

CONCLUSION

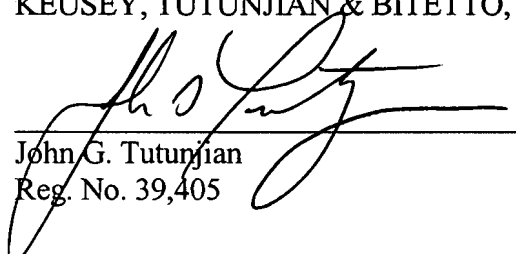
In view of the foregoing amendments and remarks, it is respectfully submitted that claims 31, 34-36, 38 and 44-47 are patentable and nonobvious over the cited references. Consequently, Applicant respectfully requests that the rejections of the claims be withdrawn, that pending Claims 31, 34-36, 38 and 44-47 be allowed, and that the case proceed to early issuance of Letters Patent in due course.

Should the Examiner believe that a telephone or personal interview may facilitate resolution of any remaining matters, the Examiner is invited to contact the Applicant's undersigned attorney.

A check for \$395.00 is enclosed to cover the small entity fee due under 37 C.F.R. §1.17(e) for the Request for Continued Examination attached herewith. In addition, a Petition for a one (1) month Extension of time is attached herewith with a check for \$60.00 to cover the small entity fee due for same. It is believed that no additional fees or charges are currently due. However, in the event that any additional fees or charges are required at this time in connection with the application, they may be charged to applicant's representatives Deposit Account No. 50-1433.

Respectfully submitted,
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